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8 UNITED STATES DISTRICT COURT
9 WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

10 FEDERAL DEPOSIT INSURANCE
11 CORPORATION AS RECEIVER FOR
WESTSOUND BANK,

12 Plaintiff,

13 v.

14 EDUARD DAVIDYUK AND JANE DOE
15 DAVIDYUK, HUSBAND AND WIFE;
16 JOHN AND JANE DOES, OCCUPANTS
OF THE PREMISES,

17 Defendants.

NO. 2:13-cv-01592-JLR

AND ORDER

**STIPULATED MOTION TO
SECURE REAL PROPERTY
AND ORDER THEREON**

Noting Date: August 7, 2014

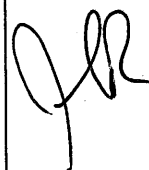
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19 **I. INTRODUCTION AND RELIEF REQUESTED**

20 Pursuant to LCR 10(g), the parties hereto jointly stipulate and move for entry of an
21 Order allowing Plaintiff Federal Deposit Insurance Corporation as Receiver for Westsound
22 Bank ("FDIC-R") leave to secure the real property which is the subject of this litigation to
23 preserve its value and prevent its further waste and deterioration. This motion is based on
24 the parties' agreed factual statement below.

25 STIPULATED MOTION TO SECURE REAL
PROPERTY AND ORDER THEREON - 1

CASE NO. 2:13-cv-01592-JLR

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II. STATEMENT OF FACTS

This litigation concerns the real property and improvements thereon commonly known as 6322 168th Pl SE, Bellevue, WA 98006¹ and legally described as follows:

Lot 2, City of Bellevue Short Plat No. 05-131188 LF,
Recorded Under Recording Number 20060510900013, in
King County, Washington.

(the "Property"). [Dkt. 1-1.]

On June 25, 2014, the Court granted FDIC-R's Motion for Summary Judgment seeking a decree of judicial foreclosure of the Property. [Dkt. 25, p. 35.] The Court stated its intention to award a specific amount of fees and costs following the parties' further submissions. [*Id.*] FDIC-R's Motion for Award of Attorney's Fees and its Presentation and Request for Entry of Judgment were noted for consideration on August 1, 2014. [Dkts. 26-27.] No opposition was filed to either the fee motion or proposed Judgment. [Dkt. 28.] The Court has not yet ruled on the pending fee motion or entered a Judgment and Decree of Judicial Foreclosure.

After the litigation is finalized in this Court, FDIC-R intends to domesticate the Judgment and Decree of Foreclosure in King County Superior Court and place the property for sale by the King County Sheriff. Defendant Eduard Davidyuk pleaded an affirmative defense of upset price under RCW 61.12.060, and this Court reserved judgment on that issue. [Dkt. 25, pp. 33-34.] Consequently, the parties anticipate it will be several months

¹ At the time the foreclosed Deed of Trust was recorded, an address had not yet been assigned by King County. The subject Deed of Trust reflects an APN 242405-9020-06 and street address of 168 SE Cougar Mountain Way, Bellevue, WA 98006. After a short plat was recorded under King County Auditor No. 20060510900013, the Property was assigned APN 242405-9170-04 and the current street address of 6322 168th Pl SE, Bellevue, WA 98006. [Dkt. 1-1.]

1 before the Sheriff's sale is completed, confirmed, and upset price determined. Further,
2 upon sale the one year redemption period will commence. [See, Dkt. 26-2, ¶12.]

3 The subject property has been abandoned, damaged, and vandalized. [Dkt. 12-2,
4 ¶2.] The parties believe the current unsecured condition of the property will subject it to
5 further waste and deterioration, especially in the anticipated inclement weather of the
6 approaching fall and winter.

7 Accordingly, the parties request the Court allow FDIC-R to take any actions any
8 actions it deems necessary and advisable to secure the Property, in order to preserve its
9 value and prevent further waste and deterioration.

10 III. STIPULATION

11 In view of the foregoing, the parties hereto jointly stipulate and move the Court
12 enter an Order granting the following relief:

- 13 1. Granting the parties' Stipulated Motion to Secure Real Property; and
- 14 2. Allowing Plaintiff Federal Deposit Insurance Corporation as Receiver for
15 Westsound Bank, its agents, assigns, and contractors, to take any and all actions FDIC-R
16 deems necessary and advisable to secure the Property identified in ¶3 below to preserve the
17 Property's value and prevent further waste and deterioration to it including, but not limited
18 to, fencing the Property, boarding up windows and doors, preventing access, installing
19 lighting, and enabling utility services.
- 20 3. This stipulation concerns the real property and improvements thereon
21 commonly known as 6322 168th Pl SE, Bellevue, WA 98006 and legally described as follows:

22 Lot 2, City of Bellevue Short Plat No. 05-131188 LF,
23 Recorded Under Recording Number 20060510900013, in
24 King County, Washington.

25 STIPULATED MOTION TO SECURE REAL
PROPERTY AND ORDER THEREON - 3

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SEATTLE, WASHINGTON 98101-1801
206/622-5306 FAX: 206/622-0354

1 IT IS SO STIPULATED this 7th day of August, 2014:

2 /s/ Barbara L. Bollero

3 Barbara L. Bollero, WSBA No. 28906
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7 Phone: (206) 622-0354, ext. 5918
8 E-Mail: bbollero@bwmlegal.com
9 Attorneys for Plaintiff FDIC-R

10 /s/ David A. Leen

11 David A. Leen, WSBA No. 3516
12 LEEN & O'SULLIVAN, PLLC
13 520 East Denny Way
14 Seattle, WA 98122
15 Phone: (206) 325-6022
16 E-Mail: david@leenandosullivan.com
17 Attorneys for Defendant Eduard Davidyuk

18 **IV. ORDER ON STIPULATION**

19 IT IS SO ORDERED.

20 DATED this 14th day of August, 2014.

21 
22 JUDGE JAMES L. ROBART
23 U. S. District Court Judge
24

25 STIPULATED MOTION TO SECURE REAL
PROPERTY AND ORDER THEREON - 4

CASE NO. 2:13-cv-01592-JLR

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CERTIFICATE OF SERVICE

I certify under penalty of perjury under the laws of the State of Washington and the United States of America that on the 7th day of August, 2014, I electronically filed the foregoing STIPULATED MOTION TO SECURE REAL PROPERTY AND PROPOSED ORDER THEREON with the Clerk of the Court using the CM/ECF System, which will send email notification of such filing to the following parties:

David A. Leen	<input checked="" type="checkbox"/> By CM ECF
Leen & O'Sullivan, PLLC	<input type="checkbox"/> By United States Mail
520 E. Denny Way	<input type="checkbox"/> By Legal Messenger
Seattle, WA 98122	<input type="checkbox"/> By Federal Express
<i>Attorneys for Defendants</i>	

Dated this 7th day of August, 2014, at Seattle, Washington.

/s/ Ana I. Todakonzie

Ana I. Todakonzie

STIPULATED MOTION TO SECURE REAL
PROPERTY AND ORDER THEREON - 5

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